

1	UNITED STATES DISTRICT COURT	
2	DISTRICT OF NEVADA	
3	GENE ANTHONY HARRY ALLEN,	Case No. 3:21-cv-00089-MMD-WGC
4	Plaintiff	ORDER
5	v.	
6	THE STATE OF NEVADA, <i>et al.</i> ,	
7	Defendants	
8		

9 **I. DISCUSSION**

10 On February 8, 2021, Plaintiff, an inmate in the custody of the Nevada Department
11 of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and
12 an application to proceed *in forma pauperis* to the U.S. District Court for the Eastern
13 District of New York. (ECF Nos. 1, 2). On February 12, 2021, a transfer order was
14 entered by U.S. District Judge Ann M. Donnelly finding this Court as the proper venue for
15 Plaintiff's action and transferring the case to the U.S. District Court for the District of
16 Nevada. (ECF No. 6).

17 Following transfer to the District of Nevada, Case No. 2:21-cv-00262-RFB-VCF
18 was opened on February 17, 2021. However, upon further review, it was determined the
19 case had been inadvertently opened in Southern Division of Nevada rather than the
20 appropriate Northern Division. Therefore, Southern Division Case No. 2:21-cv-00262-
21 RFB-VCF was closed (ECF No. 8) and this Northern Division Case No. 3:21-cv-00089-
22 MMD-WGC was opened on February 18, 2021. Plaintiff shall use only Case No. 3:21-
cv-00089-MMD-WGC for all future filings in this case.

24 Upon review of Plaintiff's application to proceed *in forma pauperis* (ECF No. 2), the
25 Court determines that Plaintiff's application to proceed *in forma pauperis* is incomplete.
26 As Plaintiff is an inmate of the Lovelock Correctional Center, Plaintiff must submit an
27 application to proceed *in forma pauperis* for an inmate on this Court's approved form,
28 together with a financial certificate and an inmate account statement for the previous six-

1 month period.

2 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
3 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
4 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
5 inmate must submit all three of the following documents to the Court:

6 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
7 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
8 page 3),
9 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
10 official (i.e. page 4 of this Court's approved form), and
11 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
12 **previous six-month period**.

13 Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*
14 (ECF No. 2) without prejudice because the application is incomplete. The Court will grant
15 Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*
16 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
17 application to proceed *in forma pauperis* on or before **April 23, 2021**. Absent unusual
18 circumstances, the Court will not grant any further extensions of time. If Plaintiff does not
19 file a fully complete application to proceed *in forma pauperis* with all three required
20 documents on or before **April 23, 2021**, this case will be subject to dismissal without
21 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all
22 three of the documents needed to file a fully complete application to proceed *in forma*
23 *pauperis* or pays the full \$402 filing fee.

24 A dismissal without prejudice means Plaintiff does not give up the right to refile the
25 case with the Court, under a new case number, when Plaintiff has all three documents
26 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
27 may choose not to file an application to proceed *in forma pauperis* and instead pay the
28 full filing fee of \$402 on or before **April 23, 2021** to proceed with this case.

1 The Court will retain Plaintiff's civil rights complaint (ECF No. 1), but the Court will
2 not file the complaint unless and until Plaintiff timely files a fully complete application to
3 proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

4 **II. CONCLUSION**

5 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
6 *in forma pauperis* (ECF No. 2) is denied without prejudice to file a new fully complete
7 application to proceed *in forma pauperis* with all three documents.

8 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
9 approved form application to proceed *in forma pauperis* by an inmate, as well as the
10 document entitled information and instructions for filing an *in forma pauperis* application.

11 IT IS FURTHER ORDERED that on or before **April 23, 2021**, Plaintiff will either
12 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
13 administrative fee) or file with the Court:

14 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
15 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
16 signatures on page 3),

17 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
18 official (i.e. page 4 of this Court's approved form), and

19 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
20 **previous six-month period**.

21 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
22 application to proceed *in forma pauperis* with all three documents or pay the full \$402
23 filing fee for a civil action on or before **April 23, 2021**, this case will be subject to dismissal
24 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
25 when Plaintiff has all three documents needed to file a complete application to proceed
26 *in forma pauperis* or pays the the full \$402 filing fee.

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1 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
2 (ECF No.1) but will not file it at this time.

3 DATED: February 22, 2021

4 *Walter G. Cobb*
5 UNITED STATES MAGISTRATE JUDGE

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